

GENERAL AVIATION FUEL TAX INFORMATION

Wisconsin Department of Revenue

April 2006

INTRODUCTION

This document provides information concerning Wisconsin's general aviation fuel tax law. It explains who needs a general aviation fuel license, when reports are due, what records to keep, the interest and penalties imposed on reports filed incorrectly, and many other related topics.

If you have questions, you may call or visit the department at:

2135 Rimrock Road
Madison, WI
Telephone (608) 266-3223 or 266-0064

or write to:

Excise Tax Section
PO Box 8900
Madison, WI 53708-8900
FAX (608) 261-7049
E-mail: excise@dor.state.wi.us

CAUTION: The information in this document reflects Wisconsin laws as of April 1, 2006. Laws and rules enacted after this date may change the information and interpretations in this document.

I. DEFINITION OF GENERAL AVIATION FUEL

Wisconsin law defines general aviation fuel as all combustible gases and liquids placed in the supply tank of an aircraft suitable for generating power to propel the aircraft. Examples of aviation fuel: products commonly or commercially known as aviation gasoline (avgas), jet turbine fuel (kerosene) and unleaded gasoline (mogas).

II. IMPOSITION OF THE GENERAL AVIATION FUEL TAX

The Wisconsin general aviation fuel tax is imposed on all aviation fuel sold, used or distributed in Wisconsin with the exceptions noted below. The general aviation fuel tax is payable by the following persons who must be licensed by the department:

1. Fuel "dealers" who make bulk deliveries of aviation fuel to persons who are not licensed as general aviation fuel dealers with the department.

2. Fuel "dealers" who place aviation fuel into the supply tanks of aircraft owned by others.
3. Fuel "dealers" who place aviation fuel into aircraft owned by others as well as their own aircraft.
4. Fuel "users" who place aviation fuel into supply tanks of their own aircraft. Generally fuel users do not need a general aviation fuel license because they pay the aviation fuel tax to their suppliers. However, users who want to purchase automobile gasoline tax-exempt from fuel suppliers must obtain a general aviation fuel license, and are then responsible for remitting the aviation fuel tax to the department. See Part VIII for more information about purchasing automobile gasoline for aircraft use.

No person may act as a general aviation fuel dealer in Wisconsin unless the person is a holder of a valid general aviation fuel license. "Users" cannot fuel aircraft owned or operated by others, only dealers can.

The term "aircraft" means any contrivance, except those owned by an air carrier company, used or designed for navigation or flight in air.

An "air carrier company" is any person, association, company or corporation that engages in the business of transporting persons and/or property on regularly scheduled flights.

Exceptions to the Tax: The general aviation fuel tax is not imposed upon the following:

1. Aviation fuel sold to the United States government or its agencies (e.g., Armed Forces, Red Cross).
2. Aviation fuel used by air carrier companies. (Air carrier companies are exempt from the Wisconsin general aviation fuel tax because they are taxed as public utilities under Chapter 76 of the Wisconsin Statutes.) Air carriers must provide dealers with a Certificate of Exemption (MF-208) in order to purchase aviation fuel tax-exempt (see Part VII).
3. Liquefied propane gas (LPG) used to heat the air in a hot air balloon. The wind, not the LP gas, propels the balloon, and therefore the LP gas is not subject to the Wisconsin fuel tax.

III. GENERAL AVIATION FUEL TAX RATE

The tax rate on general aviation fuel is 6¢ per gallon.

IV. OBTAINING A GENERAL AVIATION FUEL LICENSE

In order to obtain a general aviation fuel tax license, you must submit a properly completed fuel application to the department. You can obtain an application by calling the department's Customer Service and Education Bureau Registration Unit at (608) 261-6435. You must also obtain a Business Tax Registration Certificate from the department if you do not have one. Information about the certificate should accompany the fuel application.

License Fee: There is no fee for a general aviation fuel tax license but there is a one-time \$20 fee for the Business Tax Registration Certificate which is renewable every two years for \$10.

Security Requirement: You may be required to submit security guaranteeing your payment of the Wisconsin general aviation fuel tax. The department will determine the amount of security required but it cannot exceed three times a licensee's average monthly liability. Acceptable types of security include, but are not limited to: bonds, certificates of deposit, or cash. If you maintain a problem-free filing and payment record for two years, your security can be released.

Display of Fuel License: Each license must be conspicuously displayed at the place of business for which issued.

Additional Location: If you install storage facilities for aviation fuel at another location or begin selling aviation fuel at a location other than the location covered by your license, contact the department's Customer Service and Education Bureau Registration Unit at (608) 261-6435 immediately because you must obtain a copy of your license issued for the additional location.

Reporting Name/Address/Ownership Changes or Ceasing Operations: The department needs to know when your business undergoes any change to its name, address or ownership, or when you cease operating in Wisconsin. You can notify the department via letter or by completing the designated area for this on your monthly or quarterly report. If you receive a different Federal Employer Identification Number, you must file a new application with the department and update your security. Call (608) 261-6435 if you have any questions about your general aviation fuel tax license.

V. FILING A GENERAL AVIATION FUEL TAX REPORT

Who Must File: All general aviation fuel dealers and users licensed by the Wisconsin Department of Revenue (and any nonlicensed person who uses nontaxed aviation fuel in a

taxable manner) must complete and file a report (MF-011) with the department summarizing their aviation fuel transactions and computing any general aviation fuel tax due. **A report must be filed by licensees even when no tax is due.**

General aviation fuel licensees file a monthly report with the department unless their average tax liability is less than \$500 per calendar quarter. In which case the department may allow licensees to file and pay the general aviation fuel tax on a quarterly basis.

Due Date of Report: Your general aviation fuel tax report is due 20 days after the close of the reporting period (month or quarter). For example, a report for the month of September is due October 20. To be timely filed, a report must be postmarked by a United States Post Office on or before its due date and received by the department within five days of the due date.

CAUTION: A postage meter is not an acceptable substitute for an official postmark of a United States Post Office when the department must determine if a report is timely filed.

Where To File Reports: General aviation fuel tax reports and any accompanying remittances should be sent to:

Wisconsin Department of Revenue
PO Box 8900
Madison, WI 53708-8900

EFT TAX PAYMENTS: Taxes can be paid to the department by electronic funds transfer (EFT). Information about EFT can be obtained by calling (608) 264-9918.

Late-Filed Reports: Reports which are not timely filed are subject to the following statutory late-filing fee, interest and penalty:

- a. A mandatory \$10 late-filing fee.
- b. Interest on the tax due at the rate of 1.5% per month calculated from the due date of the report until date of tax payment.
- c. A penalty of 5% of the tax due for each month the required report is not filed (not exceeding 25% of the tax due).

Revocation of General Aviation Fuel Licenses: It is very important that licensees file their fuel tax reports timely and pay any tax due. Licensees with poor filing and/or payment records may have their general aviation fuel license revoked by the department.

VI. HOW TO CORRECT A PRIOR REPORT FILED

If you need to change the gallons shown on a report previously filed, send the department a letter detailing the changes. Calculate the additional tax you owe or refund you have coming.

Do not file an amended report or reflect the adjustments on your current report. Send your letter to:

Wisconsin Department of Revenue
Excise Tax Section
PO Box 8900
Madison, WI 53708-8900

VII. CERTIFICATE OF EXEMPTION

General aviation fuel can be purchased exclusive of the Wisconsin general aviation fuel tax via a Certificate of Exemption (MF-208) in the following two situations:

1. By a general aviation fuel dealer when purchasing aviation fuel for resale from another aviation fuel dealer.
2. By an air carrier company when purchasing aviation fuel for its aircraft.

In order to purchase aviation fuel exclusive of the general aviation fuel tax, the fuel dealer or air carrier company must complete a Certificate of Exemption and give it to their fuel dealers. If fuel is purchased from more than one dealer, a Certificate of Exemption must be completed and given to each fuel dealer. It is not necessary to send the department a copy of the completed certificate but both parties involved must each retain a copy of the completed certificate in their records. The acceptance of a properly completed Certificate of Exemption by a fuel dealer relieves the dealer from liability for the Wisconsin general aviation fuel tax owing, if any, on the aviation fuel sold.

The Certificate of Exemption can be used to make a single purchase of aviation fuel or a continuous number of purchases exclusive of the Wisconsin general aviation fuel tax. Simply check the appropriate box (single purchase or continuous) on the exemption certificate. A "continuous" certificate remains in effect until the fuel purchaser ceases operating or cancels the certificate.

Blank Certificate of Exemption forms, as well as more information regarding the exemption and its tax consequences, can be obtained by calling (608) 266-3223 or 266-0064.

VIII. AUTOMOBILE GASOLINE PURCHASED EXCLUSIVELY FOR AIRCRAFT USE

Many small aircraft have been approved by the FAA to use the same unleaded gasoline that is placed in the family car. Under Wisconsin law, general aviation fuel dealers can purchase automobile gasoline from fuel suppliers for aircraft use without paying the Wisconsin motor vehicle fuel tax (currently 30.9¢ per gallon). Fuel users (see Part II) can also purchase automobile gasoline tax-exempt for aircraft use by obtaining an aviation fuel license.

In order to purchase automobile gasoline tax-exempt from fuel suppliers, general aviation licensees must give suppliers a Certificate of Fuel Tax Exemption (MF-209). Blank forms can be obtained by calling the department at (608) 266-3223. In addition, gasoline purchased tax-exempt for aircraft use must be delivered to the general aviation licensee's storage tank in an amount not less than 100 gallons.

General aviation fuel dealers will then charge customers the 6¢ per gallon general aviation fuel tax on the automobile gasoline customers purchase for use in aircraft along with the tax owing on any other aviation fuel purchased. A dealer's tax-exempt purchases of gasoline and subsequent sales for aircraft use must be included with the dealer's other aviation fuel transactions on the Wisconsin aviation fuel tax reports (MF-011) that dealers file monthly or quarterly with the department.

Users licensed by the department will also pay the general aviation fuel tax to the department on the automobile gasoline they purchase for aircraft use. They will use the same reporting forms (MF-011) used by fuel dealers. Users licensed with the department may also purchase other aviation fuel either tax-included or untaxed, and remit the aviation fuel tax to the department along with the tax on the automobile gasoline purchased for use in aircraft.

Gasoline Purchased from Service Stations: Persons who purchase gasoline from service stations for use in aircraft are charged the motor vehicle fuel tax on the gasoline purchased (currently 30.9¢ per gallon). Such persons are required to pay the department the 6¢ per gallon general aviation fuel tax when they place the gasoline into the aircraft, and are not eligible to file a refund claim with the department for the motor vehicle fuel tax paid.

IX. NONAIRCRAFT USE OF AUTOMOBILE GASOLINE

The untaxed automobile gasoline purchased by aviation licensees is only for aircraft use. It cannot be placed in any

off-road nonlicensed mobile machinery and equipment (e.g., baggage haulers, lawn mowers) owned by the licensee, whether used at the airport or in some other business owned or operated by the licensee. This means that an aviation licensee must purchase tax-included gasoline for use in nonlicensed equipment and then file a refund claim to get the motor vehicle fuel tax back. However, such fuel can be purchased exclusive of the Wisconsin motor vehicle fuel tax if delivered into a storage tank in an amount not less than 100 gallons providing the aviation licensee executes a Certificate of Fuel Tax Exemption (MF-209) with the fuel supplier.

If you have any questions regarding refund claims or want an exemption certificate, call (608) 266-7363 or 266-6701.

X. RECORD KEEPING

You must keep a complete copy of your report and all records pertaining to your fuel business for at least four years. The records you keep must enable you and the department to determine the correct amount of your general aviation fuel tax liability.

Wisconsin law requires fuel licensees to keep a record of all purchases (manifests and invoices), receipts, sales, pump meter readings and own usage for each kind or trade name of fuel. You are required to keep accurate records of all types of fuel on hand, and to take and record a physical inventory of each type of fuel on hand (bulk and retail separately) at each location at the close of business on the last day of every month. If you make nontaxable sales of fuel, you must maintain records of such sales including the name and address of the purchaser, date of sale, what the fuel was placed into (intended use), the number of gallons sold, and that the state tax was deducted from the pump price. Copies of any executed exemption certificates must also be retained. Your records must be stored in a place and manner easily accessible for review by department personnel.

CAUTION – PRESUMPTION LAW: When records are not maintained, Wisconsin law presumes that **all** aviation fuel received into storage (untaxed bulk purchases) may be subject to the tax without benefit of any deductions. Therefore, it is very important that you maintain sufficient records to show how you determined your general aviation fuel tax liability.

Call the department at (608) 261-8985 if you have any questions about what records to keep.

XI. FILING INCORRECT REPORTS, CRIMINAL CHARGES AND DELINQUENT FEE

Incorrect Reports: The following interest and penalties may be applied when you file incorrect fuel tax reports:

- a. Interest at the rate of 12% per year on the unpaid taxes (all refunded taxes bear interest at the rate of 9% per year).
- b. Negligence penalty of 25% of the additional taxes due if there is negligence in filing a report.
- c. Fraud penalty of 50% of the tax if there was intent to defeat or evade the fuel tax.

When an incorrect report is filed late, the statutory late-filing fee, interest and penalty will also be applied (see Part V).

Criminal Charges: The following violations can result in criminal charges being brought against a person: acting (selling) as a licensee without a license; failing or refusing to furnish a fuel tax report required by the department; filing a false or fraudulent report or helping another person to do so with the intent to defeat or evade the tax; displaying or using a fuel license known to be fictitious, canceled, revoked or altered; and using a false or fictitious name when submitting a refund claim or committing any other fraud in preparing and submitting a refund claim.

Delinquent Fee: If the department sends you a billing and you do not pay it by its due date, the billing may be subject to a delinquent tax collection fee. The fee is the greater of \$35 or 6.5% of the unpaid tax, interest and penalties that become subject to the delinquent tax collection action.

XII. ANNUAL MAIL-OUT OF REPORTING FORMS

Every year in late April, the department mails out a year's supply of reporting forms to each fuel licensee. If you misplace your forms, call (608) 266-3223 or 266-0064 for replacements.

XIII. FUEL TAX EVASION

Persons who wish to report suspected cases of fuel tax evasion can contact the Wisconsin Department of Revenue at (608) 261-8985. You can also call the Central Region Task Force (headquarters in Indiana, 1-800-528-FUEL) of the Joint Federal/State Motor Fuel Tax Compliance Project which was established to curb fuel tax evasion throughout the United States.